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13. ABSTRACT (Maximum 200 Words) This Instruction implements DoD Directive 4715.1 with respect to the Defense Environmental Restoration Program (DERP) and the Base Realignment and Closure (BRAC) environmental restoration program. It implements and refines policies, assigns responsibilities, and prescribes procedures for the DERP, funded by the environmental restoration accounts; and the BRAC environmental restoration program, funded by the BRAC account. This Instruction assigns responsibilities for planning, programming, budgeting, executing, and reporting for the DERP and the BRAC environmental restoration program. It implements the Fast-TrackCleanup (FTC) Program and establishes the Environmental Security Cleanup Committee (ESCC).			
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Department of Defense INSTRUCTION

DoDI-4715.7

April 22, 1996
NUMBER 4715.7

USD(A&T)

SUBJECT: Environmental Restoration Program

- References:**
- (a) DoD Directive 4715.1, "Environmental Security," February 24, 1996
 - (b) Sections 2701-2708 and 2810 of title 10, United States Code, "Department of Defense Environmental Restoration Program" (Section 211 of Superfund Amendments and Reauthorization Act of 1986 (SARA))
 - (c) Sections 6901-6992k and implementing regulations concerning corrective action of title 42, United States Code, "Resource Conservation and Recovery Act" (RCRA)
 - (d) Sections 9601-9675 of title 42, United States Code, "Comprehensive Environmental Response, Compensation, and Liability Act," as amended (CERCLA or "Superfund")
 - (e) through (z), see enclosure 1

A. PURPOSE

This Instruction:

1. Implements reference (a) with respect to the Defense Environmental Restoration Program (DERP) and the Base Realignment and Closure (BRAC) environmental restoration program consistent with references (b) through (w).
2. Implements and refines policies, assigns responsibilities, and prescribes procedures for the DERP, funded by the environmental restoration accounts; and the BRAC environmental restoration program, funded by the BRAC account.
3. Assigns responsibilities for planning, programming, budgeting, executing, and reporting for the DERP and the BRAC environmental restoration program.
4. Establishes requirements for evaluating the relative risk posed by a site and for using that information for program planning and execution.
5. Establishes measures of merit for assessing the progress towards established goals and accomplishments of the DERP and the BRAC environmental restoration program.

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6. Implements the Fast-Track Cleanup (FTC) Program to expedite restoration and transfer or lease of property at closing and realigning installations.

7. Establishes the Environmental Security Cleanup Committee (ESCC).

8. Designates the Secretary of the Army as the DoD Executive Agent for the Formerly Used Defense Sites (FUDS) Program, and as the lead agency for Defense and State Memorandum of Agreement (DSMOA)/Cooperative Agreements and the Agency for Toxic Substances and Disease Registry (ATSDR) programs.

B. APPLICABILITY AND SCOPE

This Instruction:

1. Applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Inspector General of the Department of Defense, the Defense Agencies with land management responsibilities, and the DoD Field Activities, including any other integral DoD organizational entity or instrumentality established to perform a governmental function (hereafter referred to collectively as "the DoD Components").

2. Applies to facilities or installations within the United States and its territories and possessions that are controlled by the Department of Defense, or under the jurisdiction of the Department of Defense or one of the DoD Components (including installations designated for closure or realignment under BRAC). Restoration activities may be conducted beyond the boundaries of a DoD facility or installation when it has been determined that contamination has migrated from a source within such a facility or installation or when hazardous substances from a DoD facility have come to be placed outside the facility. Contamination on facilities outside the United States and its territories is covered under the Deputy Secretary of Defense Memorandum (reference (x)).

3. Applies to FUDS that were under the jurisdiction of the Department of Defense at the time of actions that caused the release of hazardous substances or other environmental damage.

4. Applies to other sites for which the Department of Defense may be a potentially responsible party, as defined by the Deputy Under Secretary of Defense (Environmental Security) Memorandum (reference (s)).

5. Does not apply to contractor-owned and contractor-operated facilities that are not on real property controlled by the Department of Defense; contamination caused by non-military civil works activities of the Commander, the U.S. Army Corps of Engineers; and responses to spill incidents associated with current operations, and as specified in reference (s).

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. POLICY

The goal of the DERP and BRAC environmental restoration program is to reduce, in a cost-effective manner, the risks to human health and the environment attributable to contamination resulting from past DoD activities. This goal is accomplished through the following policies:

1. Identify, evaluate, and, where appropriate, remediate contamination resulting from past DoD activities.
2. Ensure immediate action to remove imminent threats to human health and the environment.
3. Comply with statutes, regulations, Executive Orders, and other legal requirements governing cleanup of contamination.
4. Conduct DERP and BRAC environmental restoration program activities to meet program goals as stated in the Defense Planning Guidance (DPG).
5. Develop partnerships regarding restoration activities with the U.S. Environmental Protection Agency (EPA) and appropriate State, local, and territorial regulatory agencies.
6. Promote and support public participation in the DERP and the BRAC environmental restoration program.
7. Support the development and use of cost-effective innovative technologies and process improvements in the restoration process.
8. Support community reinvestment initiatives at closing and realigning installations through the selection of remedies, where practicable, that are consistent with redevelopment actions.

E. RESPONSIBILITIES

1. The Under Secretary of Defense for Acquisition and Technology shall:
 - a. Serve as the Decision Authority for the DERP and BRAC environmental restoration program.
 - b. Issue policy and guidance for the DERP and BRAC environmental restoration program, including establishing program scope, goals, and priorities.
 - c. Provide oversight of the DERP and BRAC environmental restoration program, including ensuring that program implementation is consistent with guidance and is consistent across DoD Components.

d. Delegate program authority, as appropriate.

2. The Deputy Under Secretary of Defense for Environmental Security, under the Under Secretary of Defense for Acquisition and Technology, shall:

a. Subject to the concurrent authority of the Under Secretary of Defense for Acquisition and Technology (USD(A&T)), exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2701-2708 and 2810 (reference (b)) and E.O. 12580 (reference (m)) necessary to execute the DERP and BRAC environmental restoration program.

b. Prepare policy and guidance for the DERP and BRAC environmental restoration program.

c. Conduct analysis and oversight of the DERP and BRAC environmental restoration program.

d. Propose updates to the DPG to the USD(Policy) through the USD(A&T).

e. Coordinate efforts with the Assistant Secretary of Defense (Economic Security) (ASD(ES)) to prepare policy, guidance, goals, objectives, and funding requirements for the BRAC environmental restoration program.

f. Establish a DoD-wide management information system that is the central source for all site and programmatic information in accordance with DoD Directive 8000.1 (reference (y)). Data in this system shall be consistent with data in the DoD Planning, Programming, and Budgeting System (PPBS). Provide for regularly scheduled data collection, and issue other data calls as required.

g. Establish performance goals and measures to implement the DERP and BRAC environmental restoration program.

h. Conduct in-progress reviews (IPR) of the DERP and BRAC environmental restoration program and report the results to USD(A&T).

i. Provide liaison with other Federal Agencies, States, and territories. Support the Assistant Secretary of Defense (Legislative Affairs) liaison with Congress.

j. Prepare and issue the DERP Annual Report to Congress in accordance with references (b), and (i) through (k).

k. Consolidate, submit, and defend environmental restoration Program Objective Memoranda (POMs) and budgets for the Defense-wide account, which includes non-BRAC funding for the Deputy Under Secretary of Defense (Environmental Security) (DUSD(ES)), the Defense Logistics Agency, the Defense Nuclear Agency, and FUDS.

l. Propose to the Under Secretary of Defense (Comptroller) (USD(C)) and the Director, Program Analysis and Evaluation (PA&E), updates of displays of the annual budget preparation instructions and POM preparation instructions (PPI) that adequately depict program requirements for the DERP and BRAC environmental restoration program.

m. Review and evaluate DoD Components' POMs, budget submissions, and funding. Make recommendations to the Director, PA&E and the USD(C).

n. Evaluate DoD Components' execution of the DERP and BRAC environmental restoration program based on goals and measures of merit.

o. Establish and direct the ESCC and its operation.

p. Sign DSMOAs with interested States and territories to expedite restoration by securing technical support services at operational installations, closing and realigning installations, and FUDS.

q. Establish a Memorandum of Understanding (MOU) with the Agency for Toxic Substances and Disease Registry (ATSDR), in coordination with the DoD Components, to transfer funds in support of public health activities.

r. Enter into other agreements, on behalf of the Department of Defense, regarding environmental restoration.

s. Delegate program authority, as appropriate.

3. The Assistant Secretary of Defense for Economic Security, under the Under Secretary of Defense for Acquisition and Technology, shall coordinate efforts with the DUSD(ES) to establish the goals, objectives, and funding requirements of the BRAC environmental restoration program in accordance with the DPG.

4. The Under Secretary of Defense (Comptroller) shall:

a. Incorporate appropriate changes to the DERP and BRAC environmental restoration program budget preparation formats to ensure that appropriate, meaningful data are collected.

b. Consult with the DUSD(ES) regarding DERP and BRAC environmental restoration program budget submissions.

c. Review and adjust DoD Component DERP and BRAC environmental restoration program budget submissions.

d. Coordinate with the DUSD(ES) to implement financial reports on DERP and BRAC environmental restoration program funding to ensure accurate reporting.

5. The Under Secretary of Defense (Comptroller) shall ensure that the Director, Program Analysis and Evaluation, shall:

a. Review and analyze DoD Component DERP and BRAC environmental restoration program POM submissions.

b. Coordinate with the DUSD(ES) on DoD Component DERP and BRAC environmental restoration programming, including Program Planning Instruction requirements, POM submissions, and program review decisions.

6. The Secretaries of the Military Departments, Directors of the Defense Agencies with land management responsibilities under OSD Principal Staff Assistants and those that report directly to the Secretary or Deputy Secretary of Defense, and to the extent applicable, the Heads of other DoD Components shall:

a. Subject to the concurrent authority of the USD(A&T) and the DUSD(ES), exercise all responsibilities and authorities of the Secretary of Defense under 10 U.S.C. 2701-2708 and 2810 (reference (b)), and E.O. 12580 (reference (m)), necessary to execute the DERP and BRAC environmental restoration program. Those authorities derived from paragraphs 2(j) and 4(e) of reference (m) may be redelegated in writing only to a member of the Senior Executive Service or a General/Flag Officer with principal responsibility for the execution of the DERP; all remaining authorities may be redelegated in writing as appropriate.

b. Establish DERP and BRAC environmental restoration programs with scope, goals, and priorities prescribed by USD(A&T); and implement and execute DoD policies and guidance for these programs.

c. Designate an executive to oversee implementation of DERP and BRAC environmental restoration program policy and guidance within the DoD Component. Authorities and responsibilities for executing the programs in a manner consistent with this guidance may be delegated further within the DoD Component.

d. Plan, program, and budget DERP and BRAC environmental restoration program requirements in a manner consistent with the DPG, budget guidance, and other appropriate instructions. Defend those requirements, and execute the programs in a manner consistent with the DoD fiscal and programmatic guidance.

e. Collect and maintain data and documentation by site, including program estimates, schedules, and performance measures necessary to plan, program, budget, and track execution of the DERP and BRAC environmental restoration program.

f. Monitor and report on program execution, providing information for each site regarding status, schedule, and cost to the DUSD(ES) by updating regularly the Restoration Management Information System (RMIS), or its successor tracking system.

g. Provide DERP and BRAC environmental restoration program status information during IPRs and other data calls.

h. Negotiate and sign Federal Facility Agreements (FFA) and other types of Federal and State restoration agreements, as appropriate. Agreements shall address the relationships between agencies, reflect budget constraints, and allow for flexibility of schedules.

i. Select preferred alternatives at remedial action sites and sign and execute restoration decision documents.

j. Provide liaison with other Federal and State environmental agencies, as appropriate.

k. Support the DSMOA program by reviewing work plans, documents, and progress reports, and by providing funds.

l. Comply with and support agreements, as appropriate, with other organizations such as ATSDR and EPA.

m. Integrate the relative risk concept into program planning and execution in accordance with the Risk-Based Site Evaluation Primer (reference (u)).

n. Expedite the restoration process. For example, where appropriate, take interim remedial actions and removal actions, and use generic cleanup strategies.

o. Encourage public participation in the DERP and BRAC environmental restoration program.

p. Support and facilitate the development and use of innovative technologies.

q. Participate in the preparation of the DERP Annual Report to Congress.

r. Address third-party site claims arising from disposal of waste by the DoD Component.

7. The Director, Defense Logistics Agency, under the Under Secretary of Defense for Acquisition and Technology, shall address third-party site claims arising from a Defense Reutilization and Marketing Service sale or disposal contract.

8. The Secretary of the Army shall:

a. Act as the DoD Executive Agent for the FUDS program. This includes identifying to the DUSD(ES) funding required, and conducting restoration activities at eligible properties on behalf of the DoD Components, and reporting on program progress. Funds for FUDS will be programmed and budgeted in the Defense-wide environmental restoration account.

b. Act as lead agency for:

(1) DSMOA and Cooperative Agreements programs. This includes negotiating DSMOAs, for DUSD(ES) signature, with interested States and territories to facilitate their participation and technical support in restoration at operational installations, closing and realigning installations, and FUDS. Notify the DoD Components of the costs of each cooperative agreement in a timely manner to enable the DoD Components to plan, program, and budget accordingly. Report on program progress.

(2) Carrying out DoD responsibilities under the MOU with ATSDR. This includes notifying the DoD Components of the costs in a timely manner to enable the them to plan, program, and budget accordingly. Report on program progress.

F. PROCEDURES

1. Conduct DERP activities at operational installations to:

a. Plan, program, and execute activities using the results of relative risk site evaluations in accordance with the Risk-Based Site Evaluation Primer (reference (u)), and other criteria to meet program goals as stated in the DPG.

b. Measure program progress in terms of:

- (1) Reduction of relative risk at sites.
- (2) Progression of sites through the restoration phases.
- (3) Accomplishment of milestones leading to site completion.

2. Conduct BRAC environmental restoration activities at closing and realigning installations to:

a. Plan, program, and execute activities that support property reuse, using the results of relative risk site evaluations in accordance with reference (u), and other criteria to meet program goals as stated in the DPG.

b. Measure program progress in terms of:

- (1) Reduction of relative risk at sites.
- (2) Progression of sites through the restoration phases.
- (3) Accomplishment of milestones leading to site completion.
- (4) Acres of land environmentally suitable for transfer.

3. Conduct the FTC program to expedite restoration and transfer or lease of property at closing and realigning installations. This includes improving the efficiency of the restoration process, partnering with Federal and State regulatory agencies, and working with local communities and other stakeholders.

4. Ensure that actions necessary to protect human health, safety, and the environment are taken before the property is transferred or leased. Environmental response actions found to be necessary subsequent to property transfer at BRAC properties shall normally be addressed by the losing DoD Component.

5. Negotiate and sign FFA and other types of Federal and State restoration agreements, as appropriate. Agreements shall address the relationships between agencies, reflect budget constraints, and allow for flexibility of schedules.

6. Conduct public participation in a manner consistent with the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the National Contingency Plan, and other applicable laws and regulations by ensuring timely public access to information, opportunity for public comment on proposed activities, and consideration of public comments in the decision-making process. Establish Technical Review Committees (TRC) or Restoration Advisory Boards (RAB) that include representatives of the community, in accordance with the Deputy Under Secretary of Defense (Environmental Security) Memorandum (reference (s)).

7. Develop management plans for each installation that identify all sites, planned activities, schedules, and costs.

G. INFORMATION REQUIREMENTS

1. The information requirement at E.2.f. has been assigned Report Control Symbol (RCS) DD-A&T(A& AR)1995 in accordance with DoD 8910.1-M (reference (z)).

2. The DoD Components will present program status information at regular IPRs. Other information will be provided as necessary.

H. EFFECTIVE DATE

This Instruction is effective immediately.

Paul G. Kaminski

Paul G. Kaminski
Under Secretary of Defense
(Acquisition and Technology)

Enclosures - 2

1. References
2. Definitions

REFERENCES, continued

- (e) Section 2687 of title 10, United States Code, note, (Title II of Public Law 100-526), "Defense Authorization Amendments and Base Closure and Realignment Act of 1988," October 24, 1988
- (f) Section 2687 of title 10, United States Code, note, (Title XXIX of Public Law 101-510), "Defense Base Closure and Realignment Act of 1990," November 5, 1990
- (g) Sections 331-336 of Public Law 102-190, "National Defense Authorization Act for Fiscal Years 1992 and 1993," December 5, 1991
- (h) Sections 321-332 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993," October 23, 1992
- (i) Sections 1001-1005 of Public Law 103-160, "National Defense Authorization Act for Fiscal Year 1994," November 30, 1993
- (j) Sections 321-329 of Public Law 103-421, "National Defense Authorization Act for Fiscal Year 1995," October 5, 1994
- (k) Sections 321-325 of Public Law 104-106, "National Defense Authorization Act for Fiscal Year 1996," January 22, 1996
- (l) Title 40, Code of Federal Regulations, Part 300, "National Oil and Hazardous Substances Pollution Contingency Plan," current edition
- (m) Executive Order 12580, "Superfund Implementation," January 23, 1987
- (n) Executive Order 12088, "Federal Compliance with Pollution Controls Standards," October 13, 1978
- (o) Executive Memorandum, "Five-Part Plan for Revitalizing Base Closure Communities," President William Clinton, July 2, 1993
- (p) Deputy Secretary of Defense Memorandum, "Fast-Track Cleanup at Closing Installations," September 9, 1993, or current edition
- (q) DoD Directive 5134.1, "Under Secretary Of Defense of Acquisition and Technology (USD (A&T)),," June 8, 1994
- (r) DoD 7000.14-R, Department of Defense Financial Management Regulations, Volume 2, "Budget Formulation and Presentation," May 1994
- (s) Deputy Under Secretary of Defense (Environmental Security) Memorandum, "Program Management Guidance for Execution of the FY94/95 and the Development of the FY96 Defense Environmental Restoration Program," April 14, 1994
- (t) Federal Register, Volume 57, pages 28835-28841, "Defense Environmental Restoration Program, Notice of Fund Availability and Application Instructions for Defense and State Memoranda of Agreement," June 29, 1992
- (u) Office of the Deputy Under Secretary of Defense (Environmental Security), "Risk-Based Site Evaluation Primer," Summer 1994, or current edition
- (v) Deputy Under Secretary of Defense (Environmental Security) Memorandum, "Environmental Security Program Measures of Merit," May 16, 1995
- (w) Joint Department of Defense and U. S. Environmental Protection Agency Guidance, "Restoration Advisory Board (RAB) Implementation Guidelines," September 27, 1994
- (x) Deputy Secretary of Defense Memorandum, "Environmental Remediation Policy for DoD Activities Overseas," October 18, 1995
- (y) DoD Directive 8000.1, "Defense Information Management (IM) Program," October 27, 1992
- (z) DoD 8910.1-M, "DoD Procedures for Management of Information Requirements," November 28, 1986

DEFINITIONS

1. Agency for Toxic Substance and Disease Registry (ATSDR). A branch of the U.S. Public Health Service that performs public health assessments at DoD National Priorities List installations in accordance with the agency's authority and responsibility under CERCLA.
2. Base Realignment and Closure (BRAC) Environmental Restoration Program. Environmental restoration activities at closing and realigning installations affected by 10 U.S.C. 2687, note (references (e) and (f)), and funded by the DoD Component BRAC accounts. This program is analogous to the DERP and funds the same activities that are eligible under the DERP. It does not include Building Demolition/Debris Removal or Ordnance and Explosive Waste activities. Closure-related environmental compliance requirements are not included in this program.
3. Contamination. The existence of biological, chemical, low-level radiological, or other substances including petroleum, oil, and lubricants that may present a hazard to human health or that may render some portion of the environment unsuitable for use.
4. Decision Authority. The highest level decision-maker for the DERP and BRAC environmental restoration program.
5. Defense and State Memorandum of Agreement (DSMOA). Agreement between the Department of Defense and a State or territory whereby the State or territory can be compensated for providing technical support of environmental restoration activities at operational installations, closing and realigning installations, and FUDS.
6. Defense Environmental Restoration Program (DERP). Program established by Congress in 1986 under Section 211 of SARA (10 U.S.C. 2701-2707 and 2810) (reference (b)) to provide funding for cleanup of contaminated DoD sites in a manner consistent with the requirements of CERCLA (reference (d)).
7. Environmental Restoration. Studies, cleanup, and other actions taken to address contamination from past DoD activities to protect human health and the environment.
8. Environmental Restoration Accounts. Accounts established by each Military Department and the Defense-wide account (DUSD(ES), DLA, DNA and FUDS), used to fund environmental restoration activities at operational installations and formerly owned or used properties.
9. Environmental Security Cleanup Committee (ESCC). A committee under the Environmental Security Council, comprised of senior representatives of OSD and the DoD Components. The Committee is chaired by the Assistant Deputy Under Secretary of Defense (Environmental Security)/Cleanup and meets regularly to identify and resolve programmatic issues.
10. Environmental Security Program. The program that institutionalizes DoD environmental, safety, and occupational health awareness, making it an integral part of DoD daily activities. The DUSD(ES) is responsible for activities related to restoration, compliance, conservation, pollution prevention, safety, occupational health, fire and emergency services, pest management, explosives safety, environmental security technology, and international programs.

11. Executive Agent. The agency directly responsible for program implementation.
12. Fast -Track Cleanup (FTC). The program established under the President's five point reinvestment plan (reference(o)) to expedite the restoration and transfer of property at closing and realigning installations.
13. Federal Facilities Agreement (FFA). The agreement between regulators and the Department of Defense for the accomplishment of all necessary remedial actions. Agreements signed in accordance with CERCLA section 120 are Interagency Agreements.
14. Formerly Used Defense Sites (FUDS). Real property that formerly was used by, leased to, or otherwise was under the operational control of the Department of Defense. The restoration program at FUDS properties is similar to that at DoD installations. However, information concerning the origin of contamination, land transfer, and current ownership must be evaluated to determine whether a site is eligible for DoD funding. Sites that were transferred under the BRAC program shall not normally be considered FUDS.
15. Generic Cleanup Strategy. A strategy that has been implemented successfully and can be used to expedite the cleanup process at sites having similar characteristics.
16. Innovative Technology. Newly developed technologies, or adaptations of existing technologies, that are not normally considered certified or proven for use in site remediation.
17. Lead Agency. The agency that coordinates activities for the Department of Defense.
18. Management Plan. A plan that identifies each contaminated site on an installation, planned restoration activities, a schedule for accomplishing these activities, and costs. At closing and realigning installations, this is known as a BRAC Cleanup Plan.
19. Measure of Merit. An indicator of progress toward established goals. These measures are established by the DUSD(ES) to evaluate the status and progress of programs.
20. Relative Risk. The evaluation of individual sites to determine high, medium, or low relative risk to human health and the environment, based on contaminant hazards, migration pathways and receptors, in accordance with DoD's Risk-Based Site Evaluation Primer (reference (u)). The movement of any site from a higher to lower relative risk category as a result of natural attenuation, interim remedial, remedial, or removal actions taken is called risk reduction.
21. Restoration Advisory Board (RAB). A group of stakeholders, including representatives from the installation, the affected community, Federal and State regulatory agencies, the local government and/or redevelopment authority, and others. The RAB provides a forum for the discussion and exchange of information regarding restoration activities.
22. Restoration Management Information System (RMIS). A computerized database used by the OSD and the DoD Components to track the status of sites in the DERP and BRAC environmental restoration program. RMIS is the central source of all site and programmatic information.

23. Site. Area containing one or more releases or threatened releases of hazardous substances that, for response purposes, is treated as a discrete entity, including any building, impoundment, landfill, storage container, or other site or area where a hazardous substance has or had come to be located and including formerly used defense sites.

24. Technical Review Committee (TRC). A committee, established in accordance with 10 U.S.C. 2705 (reference (b)) composed of representatives of the Department of Defense, regulatory agencies, and the affected community. The TRC is a mechanism for exchanging information about restoration activities at an installation.

25. Third-Party Site. A site where the Department of Defense has no current or past ownership interest and where the Department of Defense has a responsibility for cleanup under CERCLA (reference (d)).